

1893-012 Chancery Causes: Briscoe Sweepson & Co] vs. D. B. Bales & Co  
Lee Co.

Briscoe, Sweepson, Arnold, Robinson, Surgenner, Orr,  
Surgenner Bales & Co]

CA-Debt

T-Property



To the Honorable H. S. K. Morrison, Judge of  
Circuit Court of Cal Co., V<sup>2</sup>.

Your orators, Daniel Briscoe, A. J. Briscoe,  
R. R. Simpson and M. S. Arnold merchants  
and partners in trade, trading under the firm  
and style name of Briscoe, Simpson & Co.,  
humbly complaining would respect-  
fully represent unto your Honor, that  
at the last August term of your Honor's  
successor's court on the law side thereof, they  
obtained a judgment against D. B. Bales  
and H. Robinson survivors of themselves  
and of A. R. Surgenor died. who were late  
merchants and partners in the retail gro-  
cery business, under the firm name of Sur-  
genor, Bales & Co. for \$9425.76 with  
legal fee \$762.65 from the 16 day of April  
and on \$180.44 from the 84 day of May 1885, Subject to a credit  
1885 till paid, and \$9.44 their costs recov-  
ered in law; an abstract of which judge-  
ment is here filed and marked "A" and pray-  
ed to be considered with this bill of Complaint  
that a fi. fa. was issued upon said judge-  
ment from the circuit court clerk's office  
and put in the hands of S. H. Zwing deputy  
for R. D. Flanary high sheriff of said  
county, and was returned to the said Clerk's  
office with this return upon it.



a copy of which fi. fa. is here filed  
as exhibit "B"; that the said A.R. Surgen  
departed this life about the day of  
1885 seized and possessed of large and  
valuable estate; that letters of administra-  
tion by the county court was granted to J.  
H. Orr upon the said estate of said Surgen-  
er; that in the creditors suit of Wm. E.  
Burns & Co vs. J. H. Orr & Amr. & Co, it is  
now pending in this court by the report of  
the Court. By this it is shown that the  
estate of A.R. Surgen is individually in-  
debted to D. B. Bales & and to Wm.  
Robinson &

And your orators would fur-  
ther show your honor that the said  
D.B. Bales and Wm Robinson are several-  
ly seized and possessed of valuable tracts  
of land, copies of the deeds to which are  
here filed and marked "D.B." & "W.R.",  
and prayed to be considered as a part of  
their bill of complaint; that they are  
advised that their judgment is a  
lien upon all the lands to which the  
said Bales and Robinson were en-  
titled at or after the date of their  
judgment; that the lien of  
your orators said judgment is only  
enforceable in a court of equity, they



condemners at law; and S<sup>r</sup>  
rents and profits of said lands  
not pay said judgement, in-  
terest and cost at law, and the  
cost of this suit within five years.  
Therefore with these premises your  
orators humbly pray your Honor to  
take cognizance of their cause and to  
enforce their lien by proper decree  
of sale of the said land; that J. H. Orr  
Admr. of the estate of the said A. R.  
Surgener be prohibited and enjoined  
from paying over to the said D. B. Bales  
or W<sup>m</sup> Robinson any moneys that <sup>may</sup> be  
have in his hands as such Admr., un-  
til it is seen that the said lands of the  
said D. B. Bales and W<sup>m</sup> Robinson will fully  
pay your orators said judgement lien;  
that D. B. Bales and W<sup>m</sup> Robinson and  
J. H. Orr Admr. of the estate of A. R.  
Surgener be made parties defendants  
to this bill of complaint and be  
required severally to answer the same  
their oaths as fully and effectually  
as if each of them had been thereto  
specially interrogated; and particu-  
larly that the said J. H. Orr Admr. &c  
answer the several Amts. due the  
said Bales and Robinson from his



Briscas, Surpass & Co

W & Bice in Cham.

D.B. Bales & Co

1887 March Bill filed. The  
executed & received  
April D.B. Conf'd  
Cause set for hearing  
Decree & continued

1888 Continued This Year

1889 " " "  
1890 " " "  
1891 " " "  
1892 " " "

1893 March Continued

" June Decree final  
& costs \$3,496.

interstate as shown by Comr. Hyatt's  
report filed in the cause of W.E.  
Burns vs J. H. Orr Admr. &c also  
now pending in this Circuit Court  
and that such other and further  
relief be granted to your orators  
as is adapted to the nature of  
their cause, and agreeable to ex-  
plicity and good conscience. May sum-  
mons issue &c. And your your  
Orators will ever pray &c

Samuel Huntington  
D. J.



To the Hon. H. S. R. Merison Judge of the Circuit  
Court of Lee County Va.

The Separate answer of Daniel B. Bales one of the  
Surviving partners of the late firm of Surgeon Bales & Robinson  
to a bill filed in this Honorable Court against him and  
said Robinson jointly by Briscoes Lumber Co.

Respondent says that plaintiffs allegation is not  
true when they allege that respondents lands will not  
in five years bring pay all that is due them. The  
truth is that they will pay all judgments against  
respondent in the course of five years time or less and  
your Orator is advised that your Honor will not decree  
land to be sold to pay an ordinary judgment when  
the rents and profits thereof will pay the same in  
five years time.

Respondent is willing that plaintiffs take and asser-  
operate any debt or demand due him from A. R. Surgeons  
estate to the payment of the plaintiffs claim against him  
and if Plffs will accept the same in that way, respondent  
will make them an assignment thereof.

Respondent says it is true A. R. Surgeon died  
intestate in this county in the month of Sept. 1885, the  
owner of valuable real and personal estate and that  
J. A. Orr became admr. of his estate. And that in the  
suit referred to, a claim was allowed respondent, as to  
respondent and said Robinson as survivors of said firm  
against the estate of said Surgeon.

It is also true that respondent owns valuable real estate  
and he supposes his co-adjt Robinson likewise owns land



the rents and profits of all which respondent supposes is liable to be taken and applied to the payment of the plaintiffs demand

Respondent supposes it is also true that the plaintiffs did obtain the judgment at law referred to of \$742.76 with interest and cost as therein stated subject to a credit of \$150.00 paid August the 18<sup>th</sup> 1885. and this credit is properly entered on the note on which said judgment was rendered as shown by a receipt herewith filed marked (A.B)

Since said judgment was rendered to wit on the 20<sup>th</sup> day of August 1886 there was paid on said judgment to the attorneys of the plaintiffs the sum of \$16.00 which was to be credited on said judgment as shown by an affidavit hereto attached as part of this answer marked (C.D.)

Now Respondent now states that at the time said judgment was rendered, their right to have been credited therein the further sum of \$50.00 paid the plaintiffs the 11<sup>th</sup> day of May 1885 as is clearly shown by their receipt herewith filed as a part of this answer marked (E.D) and by reference thereto it was paid to the plaintiffs three months and 7 days before the \$150.00 was paid which is credited in the judgment.

And respondent now prays your Honor to order the same to be credited on said judgment at law as of May 11 1885 together with said payment of \$16.00 above shown

Respondent now files herewith as a further part of this answer the original action at law in which said judgment was rendered marked (A.E) by reference to which it will be seen that said action was founded on a note dated



49 Defendant further says that on the 30th day of March 1887 there was paid on  
in said judgment, the sum of \$100, as shown by the receipt of the Plaintiff's attorney  
herewith filed as a part of this answer marked (F.E.)

April 16-1885 for \$762.65 and an open account constituted  
May the 8-1885 of \$180.11 so that it is manifest that the  
\$50.00 paid May 11-1885 25 days after said note was given  
and three days after said account was made was in fact  
a payment upon one of them and ought to be allowed as such

Defendant now states <sup>to</sup> until long after the death of the  
said A.R. Surgenor, he had nothing to do with the active  
management and conducting of the business of Surgenor  
Bales & Co and knew but little of the details of its business  
and that the same was managed and conducted by said  
A.R. Surgenor, his son S.S. Surgenor & said W.M. Robinson  
and if the same was not conducted in a careful manner  
it was certainly conducted in a careless one

At the time said action at law was instituted defendant  
knew but little of any thing in relation to the business of said  
firm, and supposing the plaintiff's demand to be just he  
paid but little attention to the suit and suffered judgment  
to be entered against him by default, but since that time  
he has been compelled to examine into its matters, and in  
doing so found said two receipts, one of which is properly  
credited and the other is not, and believing it just that  
he should have credit therefor he confidently asks that the  
same be allowed him as a credit on said judgment, which he is  
assured a court of equity will do under the facts of the case

Defendant having now answered as fully as advised it stands  
prays that Poff's bill be dismissed and defendant demand his costs.

Harry J. Wenzel for Bales.



I do solemnly Swear that the statements of the foregoing  
answer so far as made on my own knowledge are true  
and so far as made on information derived from others  
I believe them to be true so help me god.

D. B. Bates

Sworn to and subscribed before me the 30th day of March 1888

H. J. Mergenthaler

Daniel B. Bates

Ans. } Answer

Witnesses: H. J. Mergenthaler

Filed March 30<sup>th</sup> 1888.

J. H. W. Wyatt, c.c.



7/16

Rec'd of Surgeon, Bates & Co  
Sixteen dollars on the claim in  
~~the~~ our hands for Briscoes,  
Surgeon & Co this Aug 28<sup>th</sup> 1886

Duncan & Pennington  
Atty's for Briscoes, Surgeon & Co

(AC)



Briscon. Swifcam. No

To. Receipt

J. H. Co.



BRISCOES, SWEETSON & CO.  
Importers and Wholesale Dealers in  
DRY GOODS, NOTIONS, BOOTS, SHOES AND HATS,  
202 AND 204 GAY STREET, KNOXVILLE, TENN.

KNOXVILLE, TENN., August 18 1885

RECEIVED FROM MESS. *Surgener, Bales & Co.*

*One Hundred and Fifty,* + DOLLARS,

*On their Note at 1 day after 16/85 for \$762.60*

IN SETTLEMENT OF

BRISCOES, SWEPSON & CO.

*Per Bolli.*

\$ 150.  $\frac{00}{+}$



The script is written

17.3)



Wise & Simpson the Compt's  
vs } In Chancery

N. B. Bates et al Defs.

This cause came on again this day to be heard upon the papers formerly read therein. And it being stated by C. J. Sweeney at bar that all debts mentioned in said cause have been paid and nothing being unpaid therein except the costs in said cause - It is therefore adjudged, ordered and decreed that said plaintiffs recover of said defendants, the costs of this suit to be taxed by the clerk of this court and when so taxed execution may issue therefor, And this cause is stricken from the docket.



Sound Biscuit the  
as f seen final

D.B. Biscuit

Entered on OVB

Page 496

June 9, 1893

J. J. G. Hyatt C

enter this dinner  
June 9th 1893.

W. S. K. M.



Briscoes. Inyoan v. Co.

Plffs

vs

J. L. Shoy.

D. B. Balis et al,

Defts.

and

W. B. Loebett v. Co.

Plffs

vs

J. L. Shoy.

The same.

Defts.

These causes came on this 30<sup>th</sup> day of March 1887. to be heard together upon the bill of the Plaintiffs in each of said causes and exhibits therewith. The answer of D. B. Balis one of said Defendants this day filed in the cause and general replication thereto, and was argued by counsel. On consideration whereof it is adjudged ordered and decreed That the Plaintiffs in the first above styled cause recover of the Defendants, D. B. Balis and William Robinson the sum of nine hundred & fifty two  $\frac{20}{100}$  dollars with legal interest on \$762.65 part thereof from the 16<sup>th</sup> day of April 1885 and on \$180.11 another part thereof from the 8<sup>th</sup> day of May 1885 till paid and the costs of the said first named cause to be taxed by the court. Subject to a credit of fifty dollars paid on the 11<sup>th</sup> day of May 1886 One hundred & fifty dollars paid August the 18<sup>th</sup> 1886. Sixteen dollars paid



on the 23<sup>rd</sup> day of August 1886 and one hundred dollars paid on the 30<sup>th</sup> day of March 1887 for which a receipt is given) and That the plaintiffs in the second named cause recover of said Defendants D.B. Bates and William Robinson, the sum of Three hundred and forty eight dollars and 51 cents with legal interest on \$335.15 from the 30<sup>th</sup> day of September 1885 till paid and the costs of said suit to be taxed by the Clerk, subject to a credit of one hundred and twenty dollars paid on the 5<sup>th</sup> day of November 1885 Twenty <sup>two</sup> dollars paid July 5<sup>th</sup> 1886 and eighty dollars paid September 23<sup>rd</sup> 1886. And it is further adjudged ordered and decreed That unless said D.B. Bates and William Robinson or some one for them shall pay the said two sums herein before decreed against them within 40 days from the rising of this Court then C.T. Duncan who is appointed a commissioner for the purpose shall proceed to rent all the lands owned by each of said two defendants for the shortest length of time for which they will rent for a sum sufficient to pay said debts interest and costs and the costs and Commission of rent



ing Said renting shall be at public  
outcry to the highest bidder, at the front  
door of the Court house, or if deemed more  
adviseable by said Commissioner he may  
rent privately, in either event said Com-  
missioner will require cash enough paid  
down in cash to pay the costs of such rent  
and the costs and commissions of renting.  
If the said Commissioner determines to  
rent publicly, he will give notice of the  
Time and place of renting by posting writ-  
ten notices thereof at Three or more pub-  
lic places in said County, one of which  
shall be on the Court house door and another  
in the neighborhood where said lands  
lie. for at least thirty days before day  
of <sup>renting</sup> sale, for the said sums for which he leases  
said land the Commissioner will take,  
with good security  
bonds, due in yearly installments  
bearing interest from date, but before  
proceeding to rent said Commissioner  
will execute bond before the Clerk of this  
Court in a penalty of \$1500 conditioned  
to faithfully account for all sums receiv-  
ed by him in this case. He will report  
his action from time to time to this Court  
and the cause is continued.



Briseo's Inyo San 60

no  $\frac{1}{2}$  Diara. 101.

OTB Balu et al.

Intercept page 20

Enter this name

H. S. N. M.

March 20<sup>th</sup> 1887



# The Commonwealth of Virginia,

To the Sheriff of Lee County--Greeting:

We Command You, That of the Goods and Chattels of D. B. Bales and  
William Robinson  
on 762.45 from April 16<sup>th</sup> 1885, and on \$180.11 the residue  
late in your Bailiwick, you cause to be made \$ 942.76, with legal interest thereon from the 8<sup>th</sup> day of  
May, 1885, till payment, which Briscoe, Swepson & Co

lately in our Circuit Court of Lee County, have recovered against them by suit for Debt  
Also, \$ 9.44, which to the said Briscoe, Swepson & Co  
in our Court were adjudge for their costs in  
that behalf expended, whereof the said

Bales & Robinson convicted, as appears to us of record. And that you  
have the same before the Judge of our said Court at the Court House on the first Monday in November  
next, to render to the said Briscoe, Swepson & Co  
of the Debt and costs as aforesaid. And have then and there this Writ.

Witness, J. A. G. HYATT, Clerk of our said Court, at the Court House, this 7<sup>th</sup> day of Sept

1886, in the 10 year of the Commonwealth.

J. A. G. Hyatt Clerk.

65.68  
81.00  
2.50  
C.C. 25-  
89.44

A Copy  
Teste J. A. G. Hyatt C. C.



227) Airt DvK

Aug. 30 / 886

Briscoe Lenoir & Co

no 3 Fr. Fr.

Bales & Co

To Your. Friend 806

Not executed  
no property  
found

S. H. <sup>Living</sup>  
Deputy for

Dr. D. Flannery  
S. L. C.

*Handwritten signature*

Leete J. Ashworth



Virginia:

The Circuit Court for the County of Fairfax.

Daniel Briscoe, A. J. Briscoe, R. R. Swenson, S. L. Dismukes and M. D. Arnold Merchants and partners trading under the firm name of Briscoe, Swenson & Co. plaintiffs Complain of William Robinson and Daniel B. Bales survivors of themselves and A. R. Surgenor late merchants and partnership trade under the style and firm name of Surgenor, Bales & Co. defendants of a plea that they render unto the said plaintiffs the sum of Nine hundred and forty two dollars and 76 cents, which to the plaintiffs the said defendants owe and unjustly detain: For this to wit, that heretofore to wit: on the 16<sup>th</sup> day of April, 1885 the said defendants ~~together with~~ the said A. R. Surgenor ~~with their firm name of Surgenor, Bales & Co.~~ <sup>living made and signed</sup> and then <sup>to the said plaintiffs</sup> delivered their certain note in writing commonly called a promissory note, the date whereof is the day and year aforesaid and thereby promised to pay to the said plaintiffs by their firm name of Briscoe Swenson & Co. one day after the date of said writing promissory the sum of \$762.<sup>65</sup>/<sub>100</sub> part of the said sum of



\$942.76<sup>+</sup> first above demanded with in-  
terest at the rate of 6% per annum  
from date  
till paid;—

And for this also: that heretofore, to  
wit, on the 8<sup>th</sup> day of May 1885 ~~the said~~  
<sup>the said A.R. Surgenon then being</sup> defendants, were indebted to the said plain-  
tiffs in the further sum of One hun-  
dred and eighty dollars and 11<sup>+</sup> cents,  
for divers wares, goods and merchandise  
before that time sold and delivered by the  
said plaintiffs to the said defendants, &  
at their special instance and request.  
\$79.55<sup>+</sup> of which last named sum to be  
paid 4 months after the date of said  
sale and delivery, and \$100.50 the res-  
idue of the said \$180.11<sup>+</sup> to be paid by the  
said defendants 60 days after the sale  
and delivery of said goods, wares &  
merchandise: Whereby and by reason of  
the above mentioned sum of money of  
\$180.11<sup>+</sup> being and remaining <sup>wholly</sup> unpaid, an  
action hath accrued to the said plaintiffs  
to have of and from the said defend-  
ants the said sum of \$180.11 last above  
named the residue of the said sum  
of \$942.76<sup>+</sup> first above demanded  
Yet the said defendants,  
nor any one of them  
although often requested, have not  
as yet paid to the said plaintiffs



or either of said plaintiffs at any  
time either before or after the death  
of the said A.R. Surgenor the said  
sum of \$942.76. first above demanded  
nor any part thereof, but to pay the same  
both hitherto wholly failed, refused &  
neglected and still doth fail and re-  
fuse and neglect, to the damage of the  
said plaintiffs \$942.76. And therefore  
he brings his Suit.

Samuel Huntington  
Pl.



Prisoners, Spewson the

25 } 5th

L.B. Bates et al. ransomed &c  
+ of Surgeon, Bates the

1844 July, Bates, filed

" " Bates & Co. R.

" " Bates & Co. R.

" " Linn. Budget final

Q '5 535-

(40)

6 5.00

8 1.00

4 2.00

6 2.00

9.44



\$ 762  $\frac{65}{100}$

April 16<sup>th</sup>

1886

One day after date we the undersigned, of Davy Las  
Lee County, State of W. Va. for value received, promise to pay to the  
order of ~~George~~ J. Briscoes, of Cherokee, Tennessee, the sum of

Seven hundred Sixty Two  $\frac{65}{100}$  Dollars,  
payable at

WITH INTEREST AT 6 PER CENT, FROM date UNTIL PAID. THE MAKER AND ENDORSER EACH HEREBY WAIVE AS TO THIS DEBT THE EXEMPTION FROM  
LIABILITY OF THE PROPERTY WHICH they MAY BE ENTITLED TO HOLD EXEMPT UNDER THE PROVISIONS OF THE HOMESTEAD LAW; AND ~~IF SUIT IS INSTITUTED UPON THIS NOTE~~  
~~AGREE TO PAY TEN PER CENT ATTORNEYS FEES AND ALL EXPENSES INCURRED IN ITS COLLECTION, SAME TO BE TAXED UP IN JUDGEMENT.~~

No. 67

Due

James Bales (SEAL.)  
By A. R. Lusk (SEAL.)



Received on within  
1885

Aug. 18th. Cash \$150.00



INTEREST CHARGED AFTER MATURITY.

Folio 516

MONTHLY STATEMENT.

Knoxville, Tenn. Apr. 23 1885.

Messrs Surgeon Payless & Co  
Knoxville Tenn

TO

BRISCOES, SWEPSON & CO.

DR

1885

To Bal. as per Statement rend

To Mdse as per Bill rendered

Recd  
Apr

7905  
10056

Interest

18011

354

\$183.65

May 8  
"

GENTLEMEN: Our custom is to render a statement at beginning of each month of purchases made of us, whether same be due or not, that our customers may compare with their books and report if not correct. Amounts checked in red are now due, and we shall feel obliged by an early remittance.

Yours truly,

BRISCOES, SWEPSON & CO.



The Commonwealth of Virginia,

TO THE SHERIFF OF LEE COUNTY—GREETING:

WE COMMAND YOU to summon

*Daniel B. Bales and*  
*William Robinson, Survivors of the undersigned*  
*F. R. Surgenor, late merchants and*  
*partners in Trade, Trading and on the*  
*firm name and style*  
*"Surgenor Bales & Co."*

to appear at the Clerks office of the Circuit Court of Lee County, at the Court House, on the first

Monday in

*July* next to answer *Daniel B. Bales, A. J. Bales*  
*R. M. Bales & M. D. Arnold merchants and partners in*  
*Trade, Trading, under the firm name & style*  
*of "Bales & Co. Merchants & Co."*

upon a plea of

*Debt for \$743.76* . Damage, \$ *743.76*

And have then and there, this Writ.

Witness, J. A. G HYATT, Clerk of our said Court, at the

Court House, this

*28th* day of *June*, 1886, in the 110 year of the

Commonwealth.

*J. A. G. Hyatt* Clerk.



Briscoe, Ingham & Co.

no. Series. Best

Bales of Robes and furs.

To July Mules 1886.

Executed June 28  
1866 by Delivering  
a true office copy  
to D Brewster &  
W Robinson

S H Benson & S  
for R S Helms  
J. C. B.

$$\begin{array}{r} 752.65 \\ 180.33 \\ \hline 932.98 \end{array}$$



Received of D.B. Bates & Co. One hundred dollars  
 to be applied as a credit on a Judgment of the  
 Circuit Court of the County of Va in favor of Brice  
 Coe Swenson & Co vs D.B. Bates and Wm Robinson  
 Survors of themselves and A.R. Surquar late  
 Merchants Trading under the firm name and style  
 of Surquar Bates & Co. This the 30<sup>th</sup> day of March 1887  
 Duncan & Pennington  
 Attorneys.

(A&)



# The Commonwealth of Virginia,

To the Sheriff of LEE COUNTY--Creeting:

WE COMMAND YOU to summon L. B. Bales and William  
M. Robinson Survivors of themselves and A. R. Surgenor  
late merchants and partners trading under the firm  
name and style of "Surgenor Bales & Co." and  
James M. Orr Administrator of said A. R.  
Surgenor deceased

to appear at the Clerk's office of the Circuit Court of Lee County, at the Court House  
on the first Monday in March next, being Rule Day, to answer a  
Bill in Chancery exhibited in our Court against them, by Daniel  
Briscoe, A. J. Briscoe, W. R. Suepson and M. D.  
Arnold merchants and partners in Trade  
under the firm name and style of  
"Briscoe Suepson & Co."

And have then and there this Writ. Witness, J. A. G. HYATT, Clerk of our said  
Court, at the Court House, this 24<sup>th</sup> day of February 1887 in  
the 11<sup>th</sup> year of the Commonwealth.

J. A. G. Hyatt Clerk.

A Copy Teste:

(243)

Briscoe Simpson & Co

vs <sup>3</sup>/<sub>3</sub> Spw in Choy

D. B. Ballo et al

To March Rules 1887

Executed by deliver  
ing a true office  
Copy of the within  
to D B Ballo memo  
5/1887

J H Cunningham  
for R J Haney  
J L C